

# Senate Study Bill 3026 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL BRANCH  
BILL)

## A BILL FOR

1 An Act relating to interpreters and translators for limited  
2 English proficient participants in legal proceedings and in  
3 court-ordered programs.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.141, subsections 1 and 2, Code 2014,  
2 are amended to read as follows:

3 1. Except as otherwise provided by law, the court shall  
4 inquire into the ability of the child or the child's parent  
5 to pay expenses incurred pursuant to subsections 2, 4, and 8.  
6 After giving the parent a reasonable opportunity to be heard,  
7 the court may order the parent to pay all or part of the costs  
8 of the child's care, examination, treatment, legal expenses,  
9 or other expenses, excluding the costs and fees of interpreter  
10 and translator services. An order entered under this section  
11 does not obligate a parent paying child support under a custody  
12 decree, except that part of the monthly support payment may be  
13 used to satisfy the obligations imposed by the order entered  
14 pursuant to this section. If a parent fails to pay as ordered,  
15 without good reason, the court may proceed against the parent  
16 for contempt and may inform the county attorney who shall  
17 proceed against the parent to collect the unpaid amount. Any  
18 payment ordered by the court shall be a judgment against each  
19 of the child's parents and a lien as provided in section  
20 624.23. If all or part of the amount that the parents are  
21 ordered to pay is subsequently paid by the county or state,  
22 the judgment and lien shall thereafter be against each of the  
23 parents in favor of the county to the extent of the county's  
24 payments and in favor of the state to the extent of the state's  
25 payments.

26 2. All of the following juvenile court expenses are a charge  
27 upon the county in which the proceedings are held, to the  
28 extent provided in subsection 3:

29 a. Juvenile court expenses incurred by an attorney appointed  
30 by the court to serve as counsel to any party or to serve as a  
31 guardian ad litem for any child, including fees and expenses  
32 for ~~foreign language interpreters, costs of depositions and~~  
33 transcripts, fees and mileage of witnesses, and the expenses of  
34 officers serving notices and subpoenas.

35 b. Reasonable compensation for an attorney appointed by the

1 court to serve as counsel to any party or as guardian ad litem  
2 for any child in juvenile court.

3 ~~e. Fees and expenses incurred by the juvenile court for~~  
4 ~~foreign language interpreters for court proceedings.~~

5 Sec. 2. Section 602.1302, subsection 3, Code 2014, is  
6 amended to read as follows:

7 3. A revolving fund is created in the state treasury for  
8 the payment of jury and witness fees, mileage, costs related to  
9 summoning jurors by the judicial branch, costs and fees related  
10 to the management and payment of interpreters and translators  
11 in judicial branch legal proceedings and court-ordered  
12 programs, and attorney fees paid by the state public defender  
13 for counsel appointed pursuant to section 600A.6A. The  
14 judicial branch shall deposit any reimbursements to the state  
15 for the payment of jury and witness fees and mileage in the  
16 revolving fund. In each calendar quarter the judicial branch  
17 shall reimburse the state public defender for attorney fees  
18 paid pursuant to section 600A.6B. Notwithstanding section  
19 8.33, unencumbered and unobligated receipts in the revolving  
20 fund at the end of a fiscal year do not revert to the general  
21 fund of the state. The judicial branch shall on or before  
22 February 1 file a financial accounting of the moneys in the  
23 revolving fund with the legislative services agency. The  
24 accounting shall include an estimate of disbursements from the  
25 revolving fund for the remainder of the fiscal year and for the  
26 next fiscal year.

27 Sec. 3. Section 622A.1, Code 2014, is amended by striking  
28 the section and inserting in lieu thereof the following:

29 **622A.1 Definitions.**

30 As used in this chapter, unless the context otherwise  
31 requires:

32 1. "*Administrative agency*" means any department, board,  
33 commission, or agency of the state or any political subdivision  
34 of the state.

35 2. "*Court-ordered program*" means any activity in which a

1 court orders a party to participate and which is not supervised  
2 by the department of corrections or the department of human  
3 services.

4 3. "*Interpreter*" means a person who can accurately transfer  
5 the meaning of words, phrases, or signs in one language into  
6 the equivalent words, phrases, or signs in another language  
7 and includes an oral language interpreter and a sign language  
8 interpreter.

9 4. "*Legal proceeding*" means any action before any  
10 court, whether civil, criminal, or juvenile in nature,  
11 or any proceeding before any administrative agency which  
12 is quasi-judicial in nature and which has direct legal  
13 implications to any person. "*Legal proceeding*" includes any  
14 legal action preparatory to appearing before any court or  
15 administrative agency.

16 5. "*Limited English proficient*" means the inability to  
17 adequately understand or effectively communicate in the English  
18 language because a person's primary language is a language  
19 other than English.

20 6. "*Oral language interpreter*" means an interpreter who is  
21 able to interpret from one oral language into a second oral  
22 language and from the second oral language into the first oral  
23 language.

24 7. "*Participant*" means a party, witness, attorney, or child,  
25 including a child who is or may be the subject of a delinquency  
26 petition; a parent, guardian, or custodian, whose child is or  
27 may be the subject of a delinquency petition; or a person who  
28 is a guardian, conservator, or trustee in a probate case.

29 8. "*Sign language interpreter*" means an interpreter who is  
30 able to interpret from sign language into an oral language and  
31 from that oral language into sign language.

32 9. "*Translator*" means a person who can accurately transfer  
33 the meaning of written words and phrases in one language into  
34 the equivalent written words and phrases in another language.

35 Sec. 4. Section 622A.2, Code 2014, is amended to read as

1 follows:

2 **622A.2 Who entitled to interpreter or translator.**

3 1. Every limited English proficient person who cannot speak  
4 or understand the English language and who is a party to any  
5 is a participant in a legal proceeding or a witness therein,  
6 court-ordered program shall be entitled to an interpreter to  
7 assist such person throughout the proceeding or program.  
8 2. A person described in subsection 1 shall be entitled  
9 to a translator if the court determines that an oral or sign  
10 language interpretation of a written document is not sufficient  
11 to meet the person's due process rights.

12 Sec. 5. Section 622A.3, Code 2014, is amended to read as  
13 follows:

14 **622A.3 Costs — ~~when taxed.~~**

15 1. An interpreter shall be or translator appointed without  
16 expense to the person requiring assistance in the following  
17 eases: for a limited English proficient participant who is  
18 entitled to an interpreter or translator pursuant to section  
19 622A.2 shall be paid in accordance with this section and the  
20 fees for interpreter or translator services shall not be  
21 charged to the limited English proficient participant or the  
22 parties in the case.

23 a. If the person requiring assistance is a witness in the  
24 civil legal proceeding.

25 b. If the person requiring assistance is indigent and  
26 financially unable to secure an interpreter.

27 2. In civil cases, every court shall tax the cost of  
28 an interpreter the same as other court costs. In criminal  
29 cases, where the defendant is indigent, the interpreter  
30 shall be considered as a defendant's witness under rule  
31 of criminal procedure 2.15 for the purpose of receiving  
32 fees, except that subpoenas shall not be required. If the  
33 proceeding is before an administrative agency, that agency  
34 shall provide such interpreter but may require that a party  
35 to the proceeding pay the expense thereof An oral language

1 interpreter or a translator required for a limited English  
2 proficient participant in a judicial branch legal proceeding  
3 or a court-ordered program shall be paid by the state court  
4 administrator from the revolving fund created in section  
5 602.1302, subsection 3.

6 ~~3. Moneys recovered as court costs for interpreters paid~~  
7 ~~through the revolving fund established in section 602.1302,~~  
8 ~~subsection 3, shall be deposited in that fund~~ An oral  
9 language interpreter or a translator required for a limited  
10 English proficient participant in a legal proceeding before  
11 an administrative agency shall be paid by the appropriate  
12 administrative agency.

13 4. A sign language interpreter or a real-time court reporter  
14 who assists a deaf or hard-of-hearing participant in a legal  
15 proceeding before a court or an administrative agency or in a  
16 court-ordered program shall be paid by the county pursuant to  
17 section 622B.7.

18 Sec. 6. Section 622A.4, Code 2014, is amended to read as  
19 follows:

20 **622A.4 Fee for interpreter and translator services set by**  
21 **court or administrative agency — payment.**

22 ~~Every~~ An interpreter or translator appointed by a court  
23 or administrative agency shall receive a fee to be set by  
24 the court or administrative agency. ~~If the interpreter is~~  
25 ~~appointed by the court in a civil case for a person who is~~  
26 ~~indigent and unable to secure an interpreter, the fee for the~~  
27 ~~interpreter shall be paid from the revolving fund established~~  
28 ~~in section 602.1302, subsection 3.~~

29 Sec. 7. Section 622A.5, Code 2014, is amended to read as  
30 follows:

31 **622A.5 Oath.**

32 ~~Every~~ An interpreter or translator in any legal proceeding  
33 shall take ~~the same~~ an oath ~~as any other witness~~ consistent  
34 with rules adopted by the court under this chapter.

35 Sec. 8. Section 622A.6, Code 2014, is amended to read as

1 follows:

2 **622A.6 Qualifications and integrity.**

3 Any court or administrative agency may inquire into the  
4 qualifications, neutrality, and integrity of any interpreter  
5 or translator, and may disqualify any person from serving as  
6 an interpreter or translator.

7 Sec. 9. Section 622A.7, Code 2014, is amended to read as  
8 follows:

9 **622A.7 Rules — qualifications and compensation of**  
10 **interpreters and translators.**

11 The supreme court, after consultation with the commission  
12 of Latino affairs of the department of human rights and other  
13 appropriate departments, shall adopt rules governing the  
14 qualifications and compensation of interpreters and translators  
15 appearing in proceedings before a court or grand jury under  
16 this chapter. However, an administrative agency which is  
17 subject to chapter 17A may adopt rules differing from those of  
18 the supreme court governing the qualifications and compensation  
19 of interpreters and translators appearing in proceedings before  
20 that agency.

21 Sec. 10. Section 622A.8, Code 2014, is amended to read as  
22 follows:

23 **622A.8 ~~Tape~~ Electronic recording of testimony.**

24 ~~A tape~~ An electronic recording of the portion of proceedings  
25 where non-English testimony is given shall be made and  
26 maintained for one year after entry of the final disposition or  
27 sentence, or if the final judgment is appealed, until one year  
28 after the final disposition of the appeal.

29 Sec. 11. Section 622B.1, subsection 1, paragraphs c through  
30 f, Code 2014, are amended to read as follows:

31 *c.* *"Hard-of-hearing person"* means an individual who  
32 is unable to hear and distinguish sounds within normal  
33 conversational range and who needs to use speechreading,  
34 assistive listening devices, or ~~oral interpreters~~ other  
35 reasonable accommodations to facilitate communication.

d. *"Interpreter"* means ~~an oral interpreter or sign language~~  
~~interpreter~~ a person who can accurately transfer the meaning of  
words, phrases, or signs in one language into the equivalent  
words, phrases, or signs in another language, and includes an  
oral language interpreter and a sign language interpreter.

6 e. "Oral language interpreter" means an interpreter who is  
7 ~~fluent in transliterating, paraphrasing, and voicing~~ able to  
8 interpret from one oral language into a second oral language  
9 and from the second oral language into the first oral language.

10        *f. "Sign language interpreter"* means an interpreter who is  
11 able to interpret from sign language to ~~English and English to~~  
12 sign language into an oral language and from that oral language  
13 into sign language.

14      Sec. 12. Section 815.9, subsection 3, Code 2014, is amended  
15 to read as follows:

3. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person pursuant to this section. "*Legal assistance*" as used in this section shall include not only the expense of the public defender or an appointed attorney, but also transcripts, witness fees, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney, excluding the costs and fees of interpreter and translator services.

26 EXPLANATION

27           The inclusion of this explanation does not constitute agreement with  
28           the explanation's substance by the members of the general assembly.

29       This bill relates to interpreters and translators for  
30 limited English proficient participants in legal proceedings  
31 and in court-ordered programs.

32 The bill provides that a "limited English proficient" (LEP)  
33 person who is a participant in any legal proceeding involving a  
34 court or an administrative agency or in a court-ordered program  
35 shall be entitled to an interpreter or a translator to assist



1 the person in the proceeding or program. LEP is defined as the  
2 inability of a person to adequately understand or effectively  
3 communicate in the English language because a person's primary  
4 language is a language other than English. The bill defines  
5 an "interpreter" as a person who can accurately transfer the  
6 meaning of words, phrases, or signs in one language into the  
7 equivalent words, phrases, or signs in another language and  
8 includes an oral language interpreter and a sign language  
9 interpreter; a "translator" as a person who can accurately  
10 transfer the meaning of written words and phrases in one  
11 language into the equivalent written words and phrases in  
12 another language; and a "participant" as a party, witness,  
13 attorney, or child, including a child who is or may be the  
14 subject of a delinquency petition; a parent, guardian, or  
15 custodian whose child is or may be the subject of a delinquency  
16 petition; or a person who is a guardian, conservator, or  
17 trustee in a probate case.

18 The bill provides that fees for interpreter or translator  
19 services shall not be charged to an LEP participant in a legal  
20 proceeding or court-ordered program and specifies that an  
21 LEP participant shall be entitled to a translator in certain  
22 circumstances. The bill specifies that an oral language  
23 interpreter or a translator required for an LEP participant  
24 in a judicial branch legal proceeding or in a court-ordered  
25 program is to be paid by the state court administrator from  
26 the revolving fund established in Code section 602.1302,  
27 subsection 3 (known as the jury and witness fund); an oral  
28 language interpreter or a translator required for an LEP  
29 participant in a legal proceeding before an administrative  
30 agency is to be paid by the appropriate administrative agency;  
31 and a sign language interpreter and a real-time court reporter  
32 who assist a deaf or hard-of-hearing participant in a legal  
33 proceeding before a court or an administrative agency or in a  
34 court-ordered program are to be paid by the county pursuant  
35 to Code section 622B.7. The bill makes conforming changes

1 excluding the costs of interpreter and translator services  
2 from being charged to a parent in a juvenile proceeding (Code  
3 section 232.141) and to a person receiving indigent legal  
4 assistance services (Code section 815.9).

5     The bill provides additional provisions specifying that fees  
6 and qualifications for interpreter and translator services  
7 are to be determined by the court or administrative agency,  
8 as appropriate; an interpreter or translator in any legal  
9 proceeding is required to take an oath consistent with rules  
10 adopted by the court under Code chapter 622A (interpreters in  
11 legal proceedings); and a court or an administrative agency may  
12 inquire into the qualifications, neutrality, and integrity of  
13 an interpreter or translator and may disqualify any person from  
14 serving as an interpreter or translator. The bill requires  
15 electronic rather than audio recordings of the portion of  
16 proceedings where non-English testimony is given to be made and  
17 maintained for one year after entry of the final disposition  
18 or sentence or if applicable, until one year after final  
19 disposition of any appeal.

20     The bill makes conforming changes to the definitions of  
21 "interpreter", "oral language interpreter", and "sign language  
22 interpreter" in Code chapter 622B (deaf and hard-of-hearing  
23 interpreters) to be consistent with the definitions in the  
24 bill.